

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of

Kimberly Clark Corporation

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File No. EB-06-SE-340

ORDER

Adopted: February 21, 2007

Released: February 23, 2007

By the Chief, Spectrum Enforcement Division, Enforcement Bureau:

I. INTRODUCTION

1. In this Order, we deny in its entirety a request for confidential treatment of material submitted by Kimberly Clark Corporation (“Kimberly Clark”) in response to a letter of inquiry (“LOI”) from the Spectrum Enforcement Division of the Enforcement Bureau.

II. BACKGROUND

2. On November 2, 2006, the Spectrum Enforcement Division of the Enforcement Bureau sent Kimberly Clark an LOI¹ seeking information and documents concerning the company’s operation of a Private Land Mobile Radio Service station, call sign WPKW900, after expiration of its authorization for the station. Kimberly Clark submitted a response to the LOI on December 18, 2006,² which included a Request for Confidentiality seeking “confidential treatment of this Response.” According to Kimberly Clark, the LOI response “contains confidential commercial information concerning how Kimberly Clark manages its Federal Communications Commission licenses and factual information about internal operations that could result in substantial competitive harm” if such information is made publicly available.

III. DISCUSSION

3. Section 0.459 of the Commission’s Rules (“Rules”) establishes a procedure by which parties may request that information or materials that they have submitted to the Commission not be routinely available for public inspection.³ The rule requires that each such request shall contain a statement of the reasons for withholding the materials from inspection as described in Section 0.457 of the Rules,⁴ and of the facts upon which those records are based, including in part (1) identification of the specific information for which confidential treatment is requested, (2) an explanation of the degree to

¹ See Letter from Kathryn S. Berthot, Chief, Spectrum Enforcement Division, Enforcement Bureau, to Terence N. Assink, Vice President, Management Information Systems, Kimberly Clark Corporation (November 2, 2006) (“LOI”).

² See Letter from Michelle W. Cohen, Esq., counsel for Kimberly Clark, to Karen Mercer, Spectrum Enforcement Division, Enforcement Bureau (December 18, 2006) (“Response”).

³ 47 C.F.R. § 0.459.

⁴ 47 C.F.R. § 0.457.

which the information is commercial or financial, or contains a trade secret or is privileged, (3) an explanation of the degree to which the information concerns a service that is subject to competition, (4) an explanation of how disclosure of the information could result in substantial competitive harm, and (5) justification of the time period during which the submitting party asserts that material should not be available for public disclosure.

4. We conclude that Kimberly Clark's request for confidential treatment of its response to the LOI fails to comply with the standards set forth in Section 0.459 of the Rules.⁵ Kimberly Clark did not identify the specific information for which confidential treatment is sought. Rather, it simply requested "confidential treatment of this Response." Kimberly Clark also did not provide an analysis of the degree to which any information in its response is commercial or financial. Moreover, Kimberly Clark provided no discussion of the degree to which information pertaining to its internal operations could result in substantial competitive injury if disclosed. Further, Kimberly Clark did not identify, or justify, a time period during which the information in its response should not be disclosed.

5. In addition, we find that Kimberly Clark's confidentiality request is overbroad. In this regard, Kimberly Clark's response includes information that is clearly not commercial, financial or trade secret information. For example, Kimberly Clark's response references and discusses a Special Temporary Authority ("STA") and waiver request filed with the Wireless Telecommunications Bureau. We note, however, that this STA and waiver request is publicly available on the Wireless Telecommunications Bureau's internet site.

6. Section 0.459(c) of the Rules states that casual requests for confidentiality that do not comply with Sections 0.459(a) and (b) of the Rules will not be considered. The LOI issued to Kimberly Clark by the Spectrum Enforcement Division explicitly warned Kimberly Clark that any requests to treat materials responsive to the LOI as confidential must comply with Section 0.459, including the standards of specificity mandated by Section 0.459(b).⁶ As discussed above, Kimberly Clark made a blanket request for confidentiality of all the information it provided. We conclude that Kimberly Clark failed to demonstrate that its LOI response warrants confidential treatment and, therefore, deny its request.

IV. ORDERING CLAUSES

7. Accordingly, **IT IS ORDERED**, pursuant to Sections 0.111, 0.311, and 0.459(c) of the Rules,⁷ that the Request for Confidentiality filed on December 18, 2006 by Kimberly Clark **IS DENIED**.

8. **IT IS FURTHER ORDERED** that, pursuant to Section 0.459(g) of the Rules, that Kimberly Clark may file an application for review of this denial with the Commission within five (5) working days of the release date of this Order.

⁵ 47 C.F.R. § 0.459.

⁶ LOI at 2.

⁷ 47 C.F.R. § 0.111, 0.311 and 0.459(c).

9. **IT IS FURTHER ORDERED** that a copy of this Order shall be sent via facsimile, first class mail and certified mail, return receipt requested, to Michelle W. Cohen, Esq., counsel for Kimberly Clark Corporation, Thompson Hine LLP, 1920 N Street N.W., Washington, D.C. 20036.

FEDERAL COMMUNICATIONS COMMISSION

Kathryn S. Berthot
Chief, Spectrum Enforcement Division
Enforcement Bureau